Office of Chief Counsel Internal Revenue Service

memorandum

CC:NER:BRK:TL-N-6822-99

RDCamacho

date:

to:

Chief, Examination Division, Brooklyn District

Attn: Joanne Lechner, Team Coordinator

from:

District Counsel, Brooklyn

and

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This is in response to your request dated November 15, 1999 in which you requested our assistance in extending the I.R.C. § 6229(f) statute of limitations for a partnership item which has converted to a non-partnership item.

FACTS

It is our understanding that the facts of this case are as follows:

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CEP	taxpa	yer.							is a	subsi	diar	y of
				. Th	ne exami	nation	of t	he	and	i	yea	rs of
				has	recentl	y been	comp	leted	and i	it is	expe	cted
that	the	next	audit	cycle	e of the			and	t	ах уе	ears	will
comm	ence	this	year	and w	ill be c	complet	ed in	appro	oximat	ely 🛮		
	year	s.										
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				is	a Tefra	-					is	-
part	ner i	.n			It	is ou	rund	lersta	nding	that	the	only

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other partner is an individual named . An audit of the
tax year of was completed in On
a Form 870-P was signed on behalf of and and
regarding their portion of the adjustments in
the audit. Although has agreed
to the adjustments proposed in the audit of they
have requested that the Service not assess such adjustments at this
time. In order to avoid the necessity of filing numerous amended
state tax returns, would like to roll the
portion of the adjustments from the audit
into their next audit cycle and be included in determining
adjustments to be assessed at the completion of the and
audit cycle of

ANALYSIS

The execution of the Form 870-P for converting event that causes partnership items to convert to non-partnership items for each partner. I.R.C. § 6231(b)(1)(C). When the Service executes a Form 870-P or any other agreement that resolves the tax treatment of a partnership item with finality, the Service has one year to assess the tax attributable to the converted partnership items and any affected items. I.R.C. § 6229(f). In the instant case, since the Form 870-P was executed on the Service has until to assess the adjustments resulting from the

The Technical Corrections Act of 1988 provides that the section 6229(f) statute may be extended by agreement entered into between the Secretary and a partner. An extension pursuant to section 6229(f) cannot be entered into at the partnership level. The usual form for extending the section 6229(f) statute is Form 872-F.

may also include the extension of the section 6229(f) statute from the day adjustment with the extension of its other tax year adjustments on a Form 872 or 872-A, rather than executing a separate Form 872-F. If they wish to do so, the following language must be inserted into the Form 872 or 872-A:

For an 872:

With regard to interests held in entities that are subject to the TEFRA unified audit and litigation procedures, and without otherwise limiting the applicability of this agreement, this agreement also extends the period of limitations for assessing any tax (including additions to tax and interest) attributable to any partnership items, affected items, computational adjustments, and partnership items converted to nonpartnership items. This agreement extends the period for filing a request for administrative adjustment and the period for filing a petition regarding such request. For partnership items that have converted to nonpartnership items, this agreement extends that period for filing a suit for refund or credit. In accordance with paragraph (1) above, an assessment attributable to a partnership shall not terminate this agreement for other partnerships or for items not attributable to a partnership. Similarly, an assessment not attributable to a partnership shall not terminate this agreement for items attributable to a partnership.

If you wish to use a Form 872-A, the above language plus the following additional language must be used:

The issuance of a notice of deficiency will not terminate this agreement under paragraphs (1) and/or (2) for the items described by this paragraph.

This opinion is based upon the facts set forth herein. You should be aware that, under routine procedures which have been established for opinions of this type, we have referred this memorandum to the Office of Chief Counsel for review. That review might result in modifications to the conclusions herein. We will inform you of the result of the review as soon as we hear from that office. In the meantime, the conclusions reached in this opinion should be considered to be only preliminary.

If you have any additional questions, please contact Rosemarie Dever Camacho at (516)688-1701.

DONALD SCHWARTZ District Counsel

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